IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO.370 OF 2006
IN
CHAMBER SUMMONS NO.1584 OF 2003
IN
EXECUTION APPLICATION NO.17 OF 1998
IN
DECREE DATED 18.3.1986
IN
AWARD NO.75 OF 1984

Dilip Anand & Anr. ....Appellants
V/s.
Pradeep Anand & Ors. ....Respondents

Mr.Snehal Shah i/b Narayanan & Narayanan for the Appellants.
Mr.C.M. Korde, Senior Counsel i/b Mr.M.G. Gawade for the Respondents.

CORAM: DR.S.RADHAKRISHNAN &
S.J.VAZIFDAR, JJ.
DATED: 27TH JULY, 2006.

P.C. :-

1. Heard the learned Counsel for the Appellants and the learned Senior Counsel for the Respondents.

2. After hearing for some time, both the learned counsel for the Appellants and the Respondents are agreed to get the evidence recorded before a Commissioner and the issues will be as under :-

1). Whether the Chamber Summons No.1584 of 2003 dated 13.1.2003 is not maintainable as alleged

in Paragraph 3 of the Affidavit in reply dated 18.11.2003.

2). Whether the Award was never intended to be executed as alleged in paragraph 2 of the Affidavit in support dated 13.11.2003.

3). Whether the decree is a nullity because the award was not registered under the Indian Registration Act.

4). Whether the Respondents (original Applicants) prove any right to the premises, being the Ground Floor of Anand Kutir Bungalow, which are subject matter of the award.

5). Whether the Award stood fully implemented on giving to the Appellants the Raj Pipla flat in lieu of the ground floor premises in Anand Kutir Bungalow as alleged by the Respondents.

6). Whether the withdrawal of Chamber Summons No.369 of 1999 on 25th June 2001 precludes the Respondents (Orig.Applicants) from taking out the present Chamber Summons.

7). Whether the present Chamber Summons is not maintainable on the ground that the decree has not been marked as satisfied/adjusted.

3. The Appellants and the Respondents shall file their respective affidavits of documents within a period of two weeks from today and within two weeks thereafter they will complete discovery and inspection. Respondent No.1’s witness will file an affidavit in the form of affidavit under Order 18 Rule 4 of the Code of Civil Procedure within a period of two weeks thereafter.

4. The Court Commissioner shall permit cross-examination as well as record the objections which shall be without prejudice to the rights and contentions of both the parties to challenge the same before this Court.

5. Both the parties are at liberty to move before the learned single Judge for any further directions. The costs of the Commissioner will be initially shared equally by both the parties subject to final orders.

6. The Appeal stands disposed of accordingly.

(DR.S.RADHAKRISHNAN, J.)

(S.J. VAZIFDAR, J.)